

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, October 4, 2012
REGULAR MEETING
6:30 p.m.

I. **CALL TO ORDER** - The meeting was called to order at 6:30 p.m.

II. **PLEDGE OF ALLEGIANCE** – Commissioner Myers

III. **ROLL CALL**

PRESENT: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, Tucker

Staff Present: Kimberly Brandt, Community Development Director; Leonie Mulvihill, Assistant City Attorney; Tony Brine, City Traffic Engineer; Rosalinh Ung, Associate Planner; Jim Campbell, Principal Planner

IV. **PUBLIC COMMENTS**

Chair Toerge invited those interested in addressing the Commission to do so at this time. There was no response and the public comments portion of the meeting was closed.

V. **REQUEST FOR CONTINUANCES** - None

VI. **CONSENT ITEMS**

ITEM NO. 1 MINUTES OF SEPTEMBER 20, 2012

Recommended Action: Approve and file

Motion made by Commissioner Tucker and seconded by Commissioner Brown, and carried 7 – 0, to approve the minutes of the Planning Commission meeting of September 20, 2012, Regular meeting, as presented.

Interested parties were invited to address the Commission. There was no response and Chair Toerge closed public comments for this item.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES: None
ABSTENTIONS: None
ABSENT (Excused): None

VII. **STUDY SESSION ITEM**

ITEM NO. 2 Uptown Newport Project (PA2011-134)
Site Location: 4311 – 4321 Jamboree Road

Summary:

The study session will be dedicated to discussing the project and the Draft Environmental Impact Report. The proposed Uptown Newport Project would remove existing office and industrial uses in two phases and construct a mixed-use community consisting of 1,244 residential units, 11,500 square feet of neighborhood-serving retail space, and approximately two acres of park space. Residential product

types would be for sale and rental with a mix of townhomes, and mid- and high-rise condominiums. Of the 1,224 housing units, 184 units would be set aside for affordable housing. Proposed buildings would range from 30 feet to 75 feet in height; with several residential towers up to 150 feet high. The 25.05-acre project site is within the Airport Business Area of the City of Newport Beach and located on the north side of Jamboree Road, at 4311-4321 Jamboree Road, which is west of MacArthur Boulevard and east of Birch Street. Project approval requires a Planned Community Development Plan amendment and adoption, Tentative Tract Map, Development Agreement, Traffic Study, Affordable Housing Implementation Plan, Phasing Plan and Design Guidelines.

Recommended Action: None. The Planning Commission will take no action on this study session item.

Associate Planner Rosalinh Ung reported that the study session is for discussion purposes and that no action will be taken by the Planning Commission. She provided a PowerPoint presentation addressing details of the proposal, number of residential units, retail space, location, surrounding properties, existing conditions, zoning designations and uses allowed, opportunities for residential development, proposed open space, improved and proposed residential streets and proposed pedestrian access. She noted that a conceptual plan is required in order to implement residential development and that a plan was previously approved by City Council. Ms. Ung addressed the number of residential units allowed in the various sites, master site plan, park space, circulation and access to Jamboree Road. She reported the project will be developed in two phases and presented the details of each phase including timelines and expected completion dates.

Ms. Ung addressed entitlements for the project, design guidelines, phasing plans, tentative tract map, traffic study, affordable housing implementation plan, and development agreement. She addressed CEQA compliance including preparation of a draft environmental impact report (EIR) and related public review. The EIR identifies significant unavoidable impacts to air quality due to construction-related activities, noise impacts, and Ms. Ung noted the requirement for a statement of overriding considerations. She presented the project's tentative schedule including a second study session by the Planning Commission, review by the Airport Land Use Commission, Planning Commission public hearing and Council public hearings.

JoAnn Hadfield, The Planning Center DC&E, provided an overview of the environmental review including previous meetings and completion of the EIR. She noted that it was scoped based on the initial study prepared and comments received during the public scoping meeting and agency and public responses to the Notice of Preparation. She indicated that the EIR was prepared including all CEQA topical sections with the exception of Agricultural/Forestry and Mineral Resources. Ms. Hadfield addressed related technical studies and noted that there was a high level of hazards analysis performed and phase assessments, health risk assessments, and a comprehensive analysis of potential hazards associated with the operation of the TowerJazz facility and their on-site storage of chemicals. She noted significant findings for Phase 1 and Phase 2 and mitigation and timing of mitigation measures for each phase. She addressed construction and demolition impacts and presented the overall findings of the EIR. In addition, she presented information regarding noise and vibration impacts, coordination with various parties to mitigate impacts, and unavoidable significant impacts that cannot be mitigated. These related to demolition and construction activities and would occur regardless of the type of development on the site. Ms. Hadfield noted that the consistency finding by the Airport Land Use Commission is still pending.

Ms. Hadfield addressed project alternatives noting that two were considered but not carried through impact by impact in the EIR. Potentials included relocating the project and potential project phasing. She stated that the Draft EIR presents a reasonable range of alternatives that have the potential to reduce and eliminate impacts. Ms. Hadfield noted that public comments will not be responded to at this time but suggested that the public email or write and formally submit comments prior to October

24, 2012, which is the conclusion of the public review period. The final EIR will be prepared for formal presentation to the Planning Commission and Council.

Brian Rupp, Shopoff Group on behalf of Uptown Newport, addressed the Commission and noted the attendance of various colleagues related to this project. Mr. Rupp presented background, location of the Uptown Newport Project, original development of the property, current tenants, and characterization of the area, surrounding properties, existing residential units, and the integrated conceptual development plan. He addressed the number of units to be designated as affordable housing, the vision for Uptown Newport, urban plazas, streets and various residential property types as well as retail shops, outdoor spaces, patio dining and amenities. Mr. Rupp noted that design guidelines were prepared to implement the project and outline site planning, architectural design, site development and infrastructure, landscape architecture and signage for the project. He addressed primary entries, retail areas, mixed-use nodes, neighborhood parks, retail and urban plazas and private open spaces as well as architectural design guidelines and landscape design guidelines.

Mr. Rupp presented details of the proposed parks, streets, incorporation of parallel parking, choker sections for traffic calming, pedestrian connectivity, and opportunities for recreation and extension to existing trail networks. He addressed the Planned Community Development Plan and the Phasing Plan and plans for the continued operation of TowerJazz during Phase 1 and presented a model of the proposed Phase 1 and Phase 2 development. Mr. Rupp noted that the project will implement the 2006 General Plan and 2010 Integrated Conceptual Development Plan and provides for redevelopment of existing commercial and industrial uses and will bring in a new vibrant community into Newport Beach. He noted that no variances are being requested, the project is trip neutral and includes amenities such as affordable housing, workforce housing, public parks, paseos and trails and substantial funding for public park improvements throughout the airport area. Mr. Rupp addressed beneficial environmental impacts, best management practices that will protect runoff and improve water quality into the Back Bay.

In response to an inquiry from Chair Toerge regarding the timing for Phase 1, Mr. Rupp addressed the start of Phase 1 as well as the build-out phase. He noted that there will be two-to-three individual projects within Phase 1.

In reply to an inquiry by Commissioner Ameri regarding phasing, Mr. Rupp reported that the primary reason for the phasing is because TowerJazz has a lease which runs through 2017 and they have a two five-year options which could extend the lease to 2027. Mr. Rupp added the intent to have the project run on its own with the operation of TowerJazz and that Phase 1 would be fully occupied first.

Bill Shopoff, applicant, reported that all of the phases are set off with a number of tenants noting that Phase 1 could have as many as seven projects within it. As each project is completed, that project would be occupied. He agreed that there could, potentially, be sub-phases within each phase which would be occupied upon completion of each. The Planned Community allows for flexibility to be responsive to the market.

In response to Vice Chair Hillgren's inquiry, Mr. Shopoff stated that Phase 1 and Phase 2 are two separate parcels. Mr. Shopoff reported that his organization develops the land and sells to vertical developers. He addressed the existence of soils issues, primarily related to Phase 2 of the project, behind the TowerJazz facility. He addressed steps to remediate the problem.

Mr. Rupp addressed the benefit of having a water-characterized site and added that the Water Board is engaged in the process.

Mr. Shopoff reported that remediation could be completed within six-to-nine months of when the building is demolished.

Discussion followed regarding a pending risk assessment to document whether Phase 1 is clear and could be completed as early as one week.

Commissioner Kramer inquired as to the possibility of consolidating the review sessions into one session and obtaining public comments earlier rather than later.

Chair Toerge referenced the General Plan showing a circulation system that connects to Von Karman Avenue stating that he felt that it was a significant and important component. That it was minimized in the Integrated Plan with a desire by both parties to not cross boundaries. He referenced another plan where the General Plan provided unrestricted access through the area but now offers emergency access only. He felt that the project has moved away from what was originally approved in the General Plan. He expressed concerns regarding cut-off of pedestrian connectivity during Phase 1. Chair Toerge commented that several issues are significantly different than what was originally approved in the General Plan.

Interested parties were invited to address the Commission on this item.

Linda Tang, Kennedy Commission, commended the City for its progress in facilitating and encouraging the development of affordable homes in the City. She felt that the proposed rental units will improve the quality of life for the City's lower-income workers. She addressed related benefits to the environment.

Dan Purcell reported attending previous meetings on the matter and expressed concerns regarding the lack of bicycle access in the project. He questioned the location of sidewalks and felt that circulation and pedestrian mobility is very important.

Whitney Allen, Long Beach, expressed concerns with insufficiencies in the EIR and felt there will be adverse impacts to the office parks surrounding the project due to construction. She felt that traffic study data is outdated and felt that there is a traffic burden on existing parking lots. Ms. Allen stated that the project is not consistent with the CC&Rs of the Koll Center. She felt that the alternatives are not well addressed and voiced concerns with the shadow of a thirteen-story residential building. Ms. Allen felt it is detrimental to the local economy.

Chair Toerge encouraged Ms. Allen to submit her comments in writing for response by the City.

Jim Mosher expressed concerns regarding the City's vision for this area and referenced the General Plan's provisions. He questioned "density bonus" units, commented on the school district boundary and stated that he was surprised that there was no impact defined under public services. He felt that the matter needs to be considered.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Chair Toerge noted that there may or may not be another study session on this item but indicated that there will be more opportunity for comments during the public hearing for this item.

Commissioner Tucker indicated that he has a page-by-page process and asked if other Commissioners have conceptual comments at this time.

Commissioner Tucker commented on the parcel map and the possibility of multiple parcel maps being generated and stressed the importance of understanding how the plan will be implemented.

Vice Chair Hillgren inquired regarding the approval process required for a subsequent owner of a parcel.

Community Development Director Kimberly Brandt stated that the ownership does not affect the project as it moves forward and that all appropriate reviews would proceed regardless of who owns the property.

Discussion followed regarding the master developer of the site.

Commissioner Ameri commented on the creation of entitlements and related conditions of approval. He felt that conditions of approval must be developed requiring subsequent parcel owners to abide by. There may be special conditions added.

Commissioner Tucker agreed for the need of a comprehensive program where conditions to be implemented by the master developer would place a burden on all of the properties. He also felt that the grading plan did not seem clear.

Chair Toerge felt that subsequent meetings will be necessary and addressed the phasing impact that residents will face once they moved in. He referenced the various commercial uses and felt that they should be restricted to neighborhood-serving retail. He reiterated the concern over the lack of connectivity, restricted pedestrian/bicycle access, vehicle access in the northwest corner as emergency only and other restrictions. Chair Toerge addressed the importance of making sure that the project has legal access as well as access by the public to the property. He reiterated concerns that the project has evolved from its original concept in the General Plan and indicated a preference for "taller and smaller"; with taller buildings, smaller footprints, more amenities and more open space.

Vice Chair Hillgren hoped that mixed-use development works in the area and stated that he would like to see increased density in the area. He expressed concerns with the lack of integration with adjacent properties and agreed with the need for retail and amenities that make life good and interesting and compelling for people to want to live there. He addressed the importance of recreation, bicycle safety, pedestrian connectivity to trails and integration.

Commissioner Tucker commented on the Parcel Map and asked who will own and maintain the lettered lots. He assumed that park lands will be dedicated to the City.

Ms. Brandt noted that the long-term maintenance is still a point of discussion but that the intent is that the parks will be dedicated to the City.

Commissioner Brown indicated that the issue was also one of his concerns and addressed the City's high standards of maintenance.

Commissioner Tucker asked regarding securing improvements to the lettered lots.

Commissioner Ameri felt that the matter has not yet been determined and hoped that the lettered lots would be transferred to the association that would be formed.

Commissioner Tucker felt that the site plan should identify the number of angled and off-street parking spaces and each should be numbered. He questioned traffic circulation and exit routes from the retail area by the public. Commissioner Tucker addressed the uncertainty as to how long industrial uses will remain on the property and allowable uses that may not be desirable at the time when residents may be nearby.

Discussion followed regarding the transfer of development rights and permitted uses being modified without being reviewed by the Planning Commission.

Chair Toerge felt that if permitted uses will be modified, there needs to be a public hearing on the matter. Uses that are listed will need to be vetted in that some uses listed may not be appropriate.

Commissioner Tucker agreed that some of the commercial uses that are not appropriate with the residential uses and addressed fast-food and fitness facilities over 2,000 square feet. He felt that the details of how retail uses adjacent to residential uses will interface and needs to be considered carefully. Commissioner Tucker addressed wireless communications noting that it should be a minor use permit process.

Chair Toerge opined that the commercial aspect needs to serve the community and encourage pedestrian access.

Commissioner Tucker agreed with ensuring that the retail uses serve local residents, primarily.

Vice Chair Hillgren asked regarding building height restrictions.

Principal Planner Campbell reported that the airport area height limits are reflected in the PCDP and he indicated that the shade/shadow analysis was based upon the height limits and the applicant's proposed building footprints.

Discussion followed regarding setbacks and possible similar existing projects in the City.

Commissioner Tucker addressed parking and questioned the process of crediting on-street parking against the requirement for retail parking. He stated it was unclear were guests and employees would park. He felt there should be no deviation from required parking by a parking management plan.

Chair Toerge added that he cannot determine how parking is clustered to serve the commercial areas, parks and how the public may be able to use the parks.

Commissioner Tucker asked what the plan would be if there is a need for overflow parking. Additionally, Commissioner Tucker commented on the adjustment standards noting that the number of parking spaces should not be subject to change and questioned the need for a parking management plan. He felt that the manner of the stucco application to the building exteriors should be specified and suggested providing photographs of the plant material to be used in the landscaping plan. In addition, he stated that he would feel better if the Director would review the building elevations and landscaping on the building pads. He suggested adding streets to the definition section of the document.

Vice Chair Hillgren addressed the approval criteria and felt that there needs to be an understanding of what should be required.

Chair Toerge took exception to no public hearing being required for a site review application. However, he felt that there is a purpose for public hearings and felt that public hearings should be required.

Regarding the Design Guidelines, Commissioner Tucker addressed connections between the property and the adjoining Koll property. Regarding the Master Concept Plan, he addressed framework principles and felt they need to be better defined.

Vice Chair Hillgren asked regarding the implementation process of all of the guiding principles.

Commissioner Tucker stated that traffic calming devices should be designed as a part of the master site plan.

Vice Chair Hillgren commented on the establishment of identifiable neighborhoods and asked how that would be accomplished.

Discussion followed regarding the location of retail uses and the possibility of increasing those uses.

Commissioner Tucker felt that less retail would be preferable.

Discussion followed regarding the need for additional data to support the amount of retail proposed and considering that the retail would serve a broader range of users.

Commissioner Brown stated that the issue should also be considered regarding parks.

Commissioner Tucker felt that it should be ensured that there is no intent to have paid parking on the site. He questioned whether there will be enough street parking to accommodate visitors and retailers.

Commissioner Kramer expressed concerns with the architectural theme, relative to very dense, mid-rises. He felt that the issue is vague and felt that it merits further consideration, clarification and detail. He opined that contemporary styles are not timeless and expressed concerns regarding the possible "cheapening" of the styles. He felt that the quality of the architectural style needs a much higher designation than what has been presented.

Commissioner Ameri agreed with Commissioner Kramer's comments and stated that he has a problem with creating another subdivision and wondered if this is the right concept for the subject site.

Commissioner Tucker commented on windows with articulated frames and felt that they should be required rather than encouraged. He addressed plexi-glass barriers and asked about optimizing grading. He noted various typographical errors throughout the draft zoning documents, use of synthetic turf on high pedestrian areas, proposed improvements in the paseo landscaping, consistency of the paseo landscape plan, timeline for building the parks, consistent design features of the proposed parks and determination of the fence design plan.

Vice Chair Hillgren stated that he would like to see a fencing program that is transparent and reduces fencing wherever possible.

Commissioner Tucker addressed linear walks, signage design guidelines, pylon signs, consistency in retail monument signs and making clear the number of signs and sign types.

Commissioner Kramer inquired regarding undergrounding of power lines.

Mr. Campbell reported that utilities to serve the project site are required to be underground. The large 66KV transmission line along the Jamboree frontage will not be undergrounded; however the applicant has indicated their desire to underground the line to benefit the project and the public. Discussions are ongoing as part of the Development Agreement.

Commissioner Kramer indicated that he would be in favor of undergrounding.

Chair Toerge addressed the Phasing Plan within the EIR noting that there needs to be a disclosure requirement to the first property owners and any occupant because of the proposed phasing including significant unavoidable impacts. He requested explanation of section 5.92, potential mitigation measures relative to noise impacts.

Ms. Hadfield reported that a technical memorandum is included in the appendices in the EIR regarding what can and cannot be done and noted that according to CEQA standards, the

memorandum specifies that the standards can be met including listed measures. She noted that hazard conditions and chemical studies are handled in a similar manner.

Chair Toerge addressed internal noise levels, and noted various typographical errors.

It was noted that TowerJazz will have access to Jamboree during construction of Phase 1.

Chair Toerge stressed the need to ensure public access to the site. He questioned expansion of existing school facilities or building new schools and whether it is due to the expanded population or proximity to existing schools.

Mr. Shopoff reported that both alternatives are being analyzed by the Santa Ana School District.

Ms. Hadfield addressed CEQA requirements noting that if some of those decisions are deferred, that is acceptable. The EIR discloses what is currently happening and evaluates the impacts to the School Districts. The applicant has been directly coordinating with the School Districts on some of the possible solutions.

Chair Toerge referred to the commercial areas serving the neighborhood.

Commissioner Kramer inquired about the school district plan and questioned why the area is within the Santa Ana School District.

Assistant City Attorney Leonie Mulvihill reported that school district boundaries do not follow city boundaries. She addressed considerations of impacts to school districts and noted that payment of mitigation fees seem to be the sole way of mitigating the issue.

In reply to Commissioner Brown's inquiry, Ms. Mulvihill affirmed that mitigation fees are paid to the school districts. She added that the legislature has specified uses for school mitigation fees including creation of new facilities or rehabilitation of existing facilities.

In response to an inquiry from Commissioner Kramer, Ms. Mulvihill reported that school district boundaries are pursuant to state law.

Chair Toerge wondered if the project can be conditioned to allow residents to attend schools that are closest to where they live. Ms. Mulvihill indicated that she does not believe so but will provide additional information to the Commission.

Mr. Shopoff stated that they reflect the same concerns but must go through a process including a possible charter school in the immediate area.

Commissioner Myers indicated that he is pleased to see the emphasis on impacts to the schools. He addressed the proposed student generation rates and noted that they seem to be low.

Mr. Shopoff reported that mitigation fees are based on residential square footage and are set by the district.

Ms. Hadfield added that the student generation factors are from the respective school districts and referenced a school study included in the appendix.

Commissioner Tucker addressed the General Plan and the importance of being consistent with the General Plan and noted that the City is statutorily bound. He felt that lower limits and higher limits should be specifically listed in the unit counts of Phase 1. He also addressed the introduction of residents to a liquid ammonia tank and expressed concerns regarding the issue.

Chair Toerge addressed restricted access to the northwest corner of the project site and felt that what was envisioned in the General Plan has eroded. He stressed the need to consider pedestrian access and connectivity.

Mr. Rupp addressed other access restrictions.

Commissioner Tucker asked when Phase 1 streets will be bonded as well as pedestrian circulation phasing. He addressed the landscape master plan and felt that it needs to be expanded including a timeline.

Chair Toerge expressed concerns that all of the proposed street sections show no bicycle lanes or plans.

Commissioner Kramer agreed with Chair Toerge's concerns.

Commissioner Tucker addressed the fence design and asked about the timeline and responsibility for such a design.

Chair Toerge commented on the temporary walls between phasing and location of unlocked access gates to adjoining properties.

Discussion followed regarding striping on Jamboree and noted the need to consider functional bicycle safety issues.

Commissioner Tucker addressed inconsistencies in the document, shade trees in the parking areas, lack of diagrams of neighborhood streets and paseo landscaped areas.

Chair Toerge expressed concerns with plans for demolitions in Phase 2 including haul routes.

Discussion followed regarding the need for another study session.

Ms. Brandt noted the concerns raised by the Commission and reported that all will be integrated into the staff report when the item is presented at the conclusion of the EIR review period and drafting of conditions of approval. She reiterated the intent of the study session and noted that all of the information has not been presented to the Commission. Ms. Brandt reported that there are no scheduled items for the Commission for the October 18, 2012 agenda and that meeting may be cancelled. If the Commission does not wish to hold another study session on this item, a cancellation notice will be distributed.

Chair Toerge stated his preference to move directly into a public hearing after the draft EIR has been circulated and reviewed.

Commissioner Ameri stated agreement with the Chair.

Commissioner Brown agreed as well and noted that this was a fairly thorough review.

Mr. Shopoff stated their availability as needed and desired by the Commission.

Chair Toerge closed the study session noting no need to take formal action at this time.

Ms. Brandt indicated that all of the study session's PowerPoint presentations will be posted on the City's website.

VIII. STAFF AND COMMISSIONER ITEMS**ITEM NO. 3 MOTION FOR RECONSIDERATION - None****ITEM NO. 4 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

Ms. Brandt reported that at its September 25, 2012 Council meeting, Council reviewed the Balboa Village implementation plan which was approved with the exception of eliminating the proposed off-season recreational vehicle parking. Council will be considering the formation of a governing committee at a future meeting. In addition, Council reviewed the economic and fiscal impact data for the reuse of the existing City Hall property and directed staff to go forward with the General Plan Land Use amendment, zone change and Coastal Land Use plan amendment for the property. Staff will soon distribute an RFQ to interested parties.

ITEM NO. 5 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT - None**ITEM NO. 6 REQUESTS FOR EXCUSED ABSENCES**

It was noted that Commissioners Tucker and Brown will not be attending on October 18, 2012.

Ms. Brandt reported that if no new items are to be presented to the Commission, staff will send notice of cancellation of the October 18, 2012 meeting.

IX. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 9:30 p.m.

The agenda for the Regular Meeting was posted on September 28, 2012, at 2:23 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

Michael Toerge, Chairman

Fred Ameri, Secretary